

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

In Re: St. Jude Medical, Inc.
Silzone Heart Valves
Products Liability Litigation

File No. 01-MD-1396
(JRT/FLN)

Minneapolis, Minnesota
November 9, 2009
10:13 A.M.

BEFORE THE HONORABLE JOHN R. TUNHEIM
UNITED STATES DISTRICT COURT JUDGE

(STATUS CONFERENCE VIA TELEPHONE)

APPEARANCES

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10:13 A.M.

(In chambers via telephone.)

THE COURT: Good morning, everyone.

MR. ANGSTREICH: Good morning.

THE COURT: For the record, this is civil case number 01-1396, In Re: St. Jude Medical, Incorporated, Silzone Heart Valves Products Liability Litigation, and let's have counsel note appearances for the record.

First for the plaintiffs?

MR. CAPRETZ: Jim Capretz for the class.

MR. ANGSTREICH: Steve Angstreich for the class.

MR. RUDD: Gordon Rudd.

MR. KOHN: Steven Kohn for St. Jude Medical.

MR. STANLEY: David Stanley for St. Jude Medical.

MR. BETLACH: Brad Betlach, St. Jude Medical.

MS. PORTER: And Liz Porter, in-house at St. Jude.

THE COURT: Okay. Good morning, everyone. Good to hear your voices today.

MS. PORTER: Good morning.

THE COURT: I would like to discuss briefly this morning where we stand. My records show four remaining open cases in the MDL, and do we have a report on where things are at? I would like to try to get together a plan for wrapping things up at this point in time.

1 MR. ANGSTREICH: Your Honor, this is Steve
2 Angstreich. Of the four open cases, Les Grovatt is one of
3 them. We have begun the discussions in an effort to see if
4 that can be resolved. I will be speaking with Mr. Stanley
5 after our call in the hopes that that can be resolved.
6 That would leave us with, I believe, the cases that
7 Mr. Capretz has.

8 MR. CAPRETZ: Yes, Your Honor, and the Redden
9 case, I don't know if you have them listed somewhere, but
10 we had a communication.

11 THE COURT: I have Bailey, Sanchez and then this
12 newer one, Lesperance.

13 MR. CAPRETZ: Yes. And there is one that, Redden
14 is a Louisiana claimant, and we thought we had dismissed
15 that. We being our office, but it was a related case
16 called Irwin Fabre, which was also a Louisiana claimant,
17 and there was a stipulation for dismissal of that case I
18 think maybe '05 or so.

19 But Mr. Redden we had lost communication with,
20 and we are trying now to reach him and see what his status
21 is, and we haven't heard any further word for some time.
22 So we assume that there has not been any issue with the
23 Silzone valve. If that's the case, then we're going to be
24 recommending dismissal if there is no claim there. We have
25 to review the medical situation, but to the best of our

1 knowledge, there has been nothing developed in that regard.

2 Bailey has settled, and the document has been
3 signed, but the consideration is not yet received. Once
4 received, that case will be dismissed. Sanchez is in
5 negotiations, and we're waiting for further discussions
6 with Mr. Sanchez, perhaps negotiations, to see if we can
7 get that resolved.

8 The final one is Lesperance. That's one that was
9 filed relatively recently. I don't recall when, but maybe
10 within six months to a year, and we have made a settlement
11 demand on St. Jude Medical as of early October. We have
12 not heard back yet, and that's the portfolio of cases
13 remaining.

14 MR. KOHN: Your Honor, this is Steve Kohn. On
15 the Lesperance case, we're still in the process of
16 gathering the medical records, and it will be probably
17 another 30 days or more before we're able to respond to the
18 settlement demand.

19 That's a case that was filed in your court, Your
20 Honor. So I'm not quite clear whether that's in the MDL or
21 out of the MDL, but it's a case that is venued in the
22 District of Minnesota. The other case we were talking
23 about, the Sanchez case, I believe the home jurisdiction is
24 Colorado. So in the event that case isn't dismissed or
25 resolved, it probably ought to be remanded.

1 THE COURT: And what is the timing on the Sanchez
2 case? Mr. Capretz, you said that there were negotiations
3 going on?

4 MR. CAPRETZ: Yes, Your Honor. These, these
5 pickup cases, except for Lesperance, are not of the same
6 value as the ones that have previously settled. So we're
7 trying to just clean up. I would almost categorize it as
8 housekeeping, and, you know, we're working to get it
9 resolved.

10 I'm hopeful that we'll be able to. It's just a
11 matter of communicating effectively with the client.

12 THE COURT: Okay.

13 MR. ANGSTREICH: Your Honor, this is Steve
14 Angstreich again. There are three cases pending in Ramsey
15 County. All three are in settlement negotiations. From
16 the standpoint of the MDL, the only relevance of those
17 cases is for the MDL assessment.

18 THE COURT: Okay. And they're in discussions
19 right now, Mr. Angstreich?

20 MR. ANGSTREICH: Yes, they all are.

21 THE COURT: Okay. And Grovatt is being discussed
22 at this point, too, Mr. Kohn or Mr. Stanley?

23 MR. STANLEY: Yes, Your Honor.

24 THE COURT: Okay. And --

25 MR. ANGSTREICH: And, Your Honor, if we can't

1 come to an understanding, that case would then need to be
2 remanded to New Jersey.

3 THE COURT: Okay. But for all practical
4 purposes, Bailey is settled, is that correct?

5 MR. KOHN: That's correct, Your Honor.

6 THE COURT: Okay. And did you say, Mr. Capretz,
7 you're waiting for the payment on it? Is that where that's
8 at?

9 MR. CAPRETZ: Well, they, the amount of time has
10 not elapsed that St. Jude has to pay, but I assume they're
11 going to pay it anytime, and you'll get a dismissal shortly
12 thereafter.

13 THE COURT: Okay.

14 MS. PORTER: It's in process.

15 THE COURT: Okay. I'm not sure I have a record
16 of an open case for Redden right now. Perhaps, was that,
17 did you say that was dismissed by mistake, Mr. Capretz?

18 MR. CAPRETZ: No. No. No. If that was
19 dismissed, glory hallelujah, because we thought that's what
20 happened earlier, but St. Jude seemed to think that that
21 case was still on the books. And so we were going back and
22 going to dismiss it, but our recollection in our office was
23 that it had been dismissed earlier.

24 So if you have no record of it or the records
25 reflect that it has been dismissed, then that's the end of

1 it.

2 MR. STANLEY: Your Honor, this is David Stanley.
3 When that case was originally filed, both Mr. Fabre and
4 Mr. Redden were plaintiffs in a single case. So it was
5 just one case with two plaintiffs. So it's possible that
6 the entire case got dismissed, but nobody is really sure at
7 this point whether the dismissal was only filed on behalf
8 of Mr. Fabre.

9 That's what needs to be tracked down.

10 MR. CAPRETZ: That's correct. We signed a
11 stipulation to dismiss Fabre, and I don't know if it
12 included that, but if the court records are clear, then we
13 should be all right. If not, we'll continue to pursue
14 trying to locate Mr. Redden.

15 THE COURT: Well, we will check our records.
16 It's not coming up on a run-through of all of the cases.
17 So I might suggest that it was dismissed along with the
18 other plaintiff, but we'll check on that, and Holly will
19 get back to you.

20 MR. CAPRETZ: Okay. Very good.

21 THE COURT: Okay. So looking down the road here
22 with negotiations going on and some of these additional
23 documents in the Lesperance case, what are we thinking
24 about for an end time here for these, either settle or not,
25 and be remanded?

1 MR. CAPRETZ: Your Honor, this is Capretz
2 speaking. I think by the end of the year would be
3 appropriate from my perspective as far as the ones we're
4 working on, and the only other issue that we had talked
5 about before you had engaged us on the phone was just
6 costs, and we still have that to resolve, but there is no
7 problem that I know of.

8 It's just a question of paying into the fund and
9 then allocating the funds, the plaintiffs, amongst the
10 various firms. So that's the only other issue, and we were
11 talking about it probably is time to wind down this MDL.

12 THE COURT: Mr. Stanley or Mr. Kohn, do you have
13 anything else on that?

14 MR. KOHN: I would agree with Mr. Capretz that
15 the Lesperance case probably by the end of the year we're
16 going to know one way or the other whether it can be
17 resolved, and in the event it can't be resolved, it seems
18 to me it's going to remain in your court, Your Honor, and
19 so it really wouldn't impact the MDL per se.

20 THE COURT: Yeah. I don't know whether that's
21 technically in the MDL or not. We have it listed as such,
22 but it may not be. It was filed in '08, and we'll do some
23 checking to see whether that technically is in the MDL or
24 not. It might not be.

25 Okay. Well, why don't we plan on another

1 telephone conference say the first week in January or
2 somewhere around that period of time. Does that sound
3 okay?

4 MR. ANGSTREICH: That sounds fine, Your Honor.

5 THE COURT: And then we will see what issues
6 remain at that point in time?

7 MR. KOHN: Yes, I agree.

8 MR. ANGSTREICH: Yes.

9 MR. CAPRETZ: Yes.

10 THE COURT: Okay. Anything else we need to talk
11 about today?

12 MR. ANGSTREICH: I don't believe so, Your Honor.

13 MR. CAPRETZ: I would like to ask one thing while
14 we have the folks on the line. This is Capretz. If
15 St. Jude would give me permission to talk to the Court,
16 we're involved in a think tank in Santa Monica, and the
17 Court's name came up in a conversation meeting this past
18 week, and I would like permission to talk to you about
19 possible involvement on a civil justice project, if that's
20 all right.

21 St. Jude, do you have any problem with me talking
22 to the judge about that matter?

23 MR. KOHN: This is Steve Kohn. I don't have any
24 concerns about it.

25 MR. ANGSTREICH: Neither do I.

1 THE COURT: That's fine, Mr. Capretz.

2 MR. CAPRETZ: All right. Thank you.

3 MR. ANGSTREICH: And, David, I'll call you back.

4 MR. STANLEY: Okay.

5 THE COURT: Okay. Thank you, everyone. We'll be
6 in touch about a time probably first week in January.

7 Okay?

8 MR. ANGSTREICH: Very good.

9 MR. CAPRETZ: All right.

10 MR. KOHN: All right.

11 THE COURT: Okay. Thanks.

12 * * *

13 I, Kristine Mousseau, certify that the foregoing
14 is a correct transcript from the record of proceedings in
15 the above-entitled matter.

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19 Certified by: s/ Kristine Mousseau, CRR-RPR
20 Kristine Mousseau, CRR-RPR

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